

06/20/11 SIPY010 INMATE PROGRAM ASSIGNMENT *FPMS* PAGE 001

CURRENT FACILITY: 690 - SULLIVAN

DIN: 91A0169 NAME: RICHARD, JOHN W

TITLE UNKNOWN SHOP RECEPTION (1) END REASON:	ITEM 001169 FROM 06/20/11 TO	FAC SULLIVAN AM/PM	\$.0750 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP IDLE/SPECIAL HOUSING (1) END REASON: AUTO CLOSED BY LOCATOR FILE	ITEM 067169 FROM 04/11/11 TO 06/13/11	FAC UPSTATE AM/PM	\$.0000 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP IDLE, DISCIP(NO PAY) END REASON: AUTO CLOSED BY LOCATOR FILE	ITEM 066701 FROM 03/14/11 TO 03/31/11	FAC AUBURN AM/PM	\$.0000 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP UNEMPLOYED/UNASSIGNED (4) END REASON: REMOVED FOR DISCIPLINARY REASONS	ITEM 044000 FROM 02/21/11 TO 03/13/11	FAC AUBURN AM/PM	\$.0750 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP IDLE, DISCIP(NO PAY) END REASON: COMPLETED DISCIPLINARY SANCTIONS	ITEM 066217 FROM 02/14/11 TO 02/20/11	FAC AUBURN AM/PM	\$.0000 MTWTFSS YYYYY__
TITLE STUDENT SHOP BUILDING MAINTENANCE END REASON: REMOVED FOR DISCIPLINARY REASONS	ITEM 421204 FROM 11/22/10 TO 02/13/11	FAC AUBURN A.M.	\$.1583 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP UNEMPLOYED/UNASSIGNED (4) END REASON: REMOVED FOR DISCIPLINARY REASONS	ITEM 044000 FROM 09/27/10 TO 02/13/11	FAC AUBURN P.M.	\$.0750 MTWTFSS YYYYY__
TITLE PHASE II CBT SHOP PHASE II TS CORE FOUNDATION END REASON: SUCCESSFULLY COMPLETED PROGRAM	ITEM 691206 FROM 09/27/10 TO 11/21/10	FAC AUBURN A.M.	\$.1583 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP UNEMPLOYED/UNASSIGNED (4) END REASON: REACHED ON WAITING LIST	ITEM 044000 FROM 08/23/10 TO 09/26/10	FAC AUBURN AM/PM	\$.0750 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP UNEMPLOYED/UNASSIGNED (3) END REASON: LATERAL PROGRAM CHANGE	ITEM 043000 FROM 08/16/10 TO 08/22/10	FAC AUBURN AM/PM	\$.0750 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP FACILITY ORIENTATION END REASON: SUCCESSFULLY COMPLETED PROGRAM	ITEM 036169 FROM 07/12/10 TO 08/15/10	FAC AUBURN AM/PM	\$.0750 MTWTFSS YYYYY__

(exhibit F)

BATES # 000038

06/20/11 SIPY010 INMATE PROGRAM ASSIGNMENT *FPMS* PAGE 004

CURRENT FACILITY: 690 - SULLIVAN

DIN: 91A0169 NAME: RICHARD, JOHN W

TITLE ASAT PARTICIPANT SHOP ASAT(2) END REASON: LATERAL PROGRAM CHANGE	ITEM 757244 FAC WENDE FROM 01/28/08 TO 05/11/08 P.M.	\$.1750 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP UNEMPLOYED/UNASSIGNED (1) END REASON: REACHED ON WAITING LIST	ITEM 041169 FAC WENDE FROM 01/07/08 TO 01/27/08 AM/PM	\$.0750 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP FACILITY ORIENTATION END REASON: SUCCESSFULLY COMPLETED PROGRAM	ITEM 036169 FAC WENDE FROM 12/31/07 TO 01/06/08 AM/PM	\$.0750 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP RECEPTION (15) END REASON: REACHED ON WAITING LIST	ITEM 015169 FAC WENDE FROM 12/24/07 TO 12/30/07 AM/PM	\$.0750 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP IDLE/SPECIAL HOUSING (1) END REASON: AUTO CLOSED BY LOCATOR FILE	ITEM 067169 FAC UPSTATE FROM 10/08/07 TO 12/05/07 AM/PM	\$.0000 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP IDLE/SPECIAL HOUSING (2) END REASON: AUTO CLOSED BY LOCATOR FILE	ITEM 068000 FAC FIVE POINTS FROM 09/24/07 TO 09/26/07 AM/PM	\$.0000 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP UNEMPLOYED/UNASSIGNED (1) END REASON: REMOVED FOR DISCIPLINARY REASONS	ITEM 041000 FAC FIVE POINTS FROM 07/16/07 TO 09/23/07 AM/PM	\$.0750 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP IDLE/SPECIAL HOUSING (2) END REASON: COMPLETED DISCIPLINARY SANCTIONS	ITEM 068000 FAC FIVE POINTS FROM 06/25/07 TO 07/15/07 AM/PM	\$.0000 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP UNEMPLOYED/UNASSIGNED (2) END REASON: REMOVED FOR DISCIPLINARY REASONS	ITEM 042000 FAC FIVE POINTS FROM 04/16/07 TO 06/24/07 EVENING	\$.0750 MTWTFSS YYYYY__
TITLE STUDENT SHOP GENERAL BUSINESS (2) END REASON: REMOVED FOR DISCIPLINARY REASONS	ITEM 685061 FAC FIVE POINTS FROM 04/16/07 TO 06/24/07 LATE EV	\$.1583 MTWTFSS YYYYY__
TITLE UNKNOWN SHOP UNEMPLOYED/UNASSIGNED (2) END REASON: LATERAL PROGRAM CHANGE	ITEM 042000 FAC FIVE POINTS FROM 03/12/07 TO 04/15/07 LATE EV	\$.0750 MTWTFSS YYYYY__

BATES # 000041

(Exhibit F)

06/20/11 SIPY010 INMATE PROGRAM ASSIGNMENT *FPMS* PAGE 005

CURRENT FACILITY: 690 - SULLIVAN

DIN: 91A0169 NAME: RICHARD, JOHN W

TITLE STUDENT ITEM 455004 FAC FIVE POINTS
 SHOP ELECTRICAL TRADES (3) FROM 03/12/07 TO 04/15/07 EVENING \$.1583
 END REASON: ADMINISTRATIVE ERROR MTWTFSS
 YYYYY__

TITLE UNKNOWN ITEM 068000 FAC FIVE POINTS
 SHOP IDLE/SPECIAL HOUSING (2) FROM 02/26/07 TO 03/11/07 AM/PM \$.0000
 END REASON: COMPLETED DISCIPLINARY SANCTIONS MTWTFSS
 YYYYY__

TITLE STUDENT ITEM 685052 FAC FIVE POINTS
 SHOP GENERAL BUSINESS (2) FROM 02/12/07 TO 02/25/07 LATE EV \$.1583
 END REASON: REMOVED FOR DISCIPLINARY REASONS MTWTFSS
 YYYYY__

TITLE PROGRAM AIDE II ITEM 630428 FAC FIVE POINTS
 SHOP LIBRARY (1) FROM 01/15/07 TO 02/25/07 P.M. \$.2416
 END REASON: REMOVED FOR DISCIPLINARY REASONS MTWTFSS
 YYYYY__

TITLE UNKNOWN ITEM 042000 FAC FIVE POINTS
 SHOP UNEMPLOYED/UNASSIGNED (2) FROM 01/08/07 TO 01/14/07 EVENING \$.0750
 END REASON: REACHED ON WAITING LIST MTWTFSS
 YYYYY__

TITLE STUDENT ITEM 685066 FAC FIVE POINTS
 SHOP GENERAL BUSINESS (2) FROM 01/08/07 TO 02/11/07 LATE EV \$.1583
 END REASON: LATERAL PROGRAM CHANGE MTWTFSS
 YYYYY__

TITLE UNKNOWN ITEM 041000 FAC FIVE POINTS
 SHOP UNEMPLOYED/UNASSIGNED (1) FROM 01/01/07 TO 01/07/07 AM/PM \$.0750
 END REASON: REMOVED AT INMATES REQUEST MTWTFSS
 YYYYY__

TITLE UNKNOWN ITEM 068000 FAC FIVE POINTS
 SHOP IDLE/SPECIAL HOUSING (2) FROM 12/18/06 TO 12/31/06 AM/PM \$.0000
 END REASON: COMPLETED DISCIPLINARY SANCTIONS MTWTFSS
 YYYYY__

TITLE INDUSTRIES WORKER I ITEM 913201 FAC FIVE POINTS
 SHOP FOOD TRAINING FROM 12/11/06 TO 12/17/06 AM/PM/E \$.2500
 END REASON: REMOVED FOR DISCIPLINARY REASONS MTWTFSS
 YYYYY__

TITLE INDUSTRIES WORKER I ITEM 913109 FAC FIVE POINTS
 SHOP FOOD TRAINING FROM 11/20/06 TO 12/10/06 PM/EVE \$.2500
 END REASON: LATERAL PROGRAM CHANGE MTWTFSS
 YYYYY__

TITLE INDUSTRIES WORKER I ITEM 922114 FAC FIVE POINTS
 SHOP IND. FOOD SERVICE-NON TRAINING FROM 05/22/06 TO 11/19/06 PM/EVE \$.2500
 END REASON: REACHED ON WAITING LIST MTWTFSS
 YYYYY__

(exhibits)

06/20/11

SIPY010

INMATE PROGRAM ASSIGNMENT

FPMS

PAGE 006

CURRENT FACILITY: 690 - SULLIVAN

DIN: 91A0169 NAME: RICHARD, JOHN W

TITLE UNKNOWN	ITEM 068000	FAC FIVE POINTS	
SHOP IDLE/SPECIAL HOUSING (2)	FROM 03/06/06 TO 05/21/06 AM/PM		\$.0000
END REASON: COMPLETED DISCIPLINARY SANCTIONS			MTWTFSS YYYYY__
TITLE INDUSTRIES WORKER III	ITEM 913030	FAC FIVE POINTS	
SHOP FOOD TRAINING	FROM 02/20/06 TO 03/05/06 PM/EVE		\$.3200
END REASON: REMOVED FOR DISCIPLINARY REASONS			MTWTFSS YYYYY__
TITLE INDUSTRIES WORKER I	ITEM 913023	FAC FIVE POINTS	
SHOP FOOD TRAINING	FROM 01/30/06 TO 02/19/06 PM/EVE		\$.2500
END REASON: LATERAL PROGRAM CHANGE			MTWTFSS YYYYY__
TITLE INDUSTRIES WORKER I	ITEM 922116	FAC FIVE POINTS	
SHOP IND. FOOD SERVICE-NON TRAINING	FROM 02/14/05 TO 01/29/06 PM/EVE		\$.2500
END REASON: REACHED ON WAITING LIST			MTWTFSS YYYYY__
TITLE STUDENT	ITEM 403060	FAC FIVE POINTS	
SHOP ELECTRICAL TRADES	FROM 01/31/05 TO 02/13/05 P.M.		\$.1583
END REASON: REMOVED AT INMATES REQUEST			MTWTFSS YYYYY__
TITLE UNKNOWN	ITEM 042000	FAC FIVE POINTS	
SHOP UNEMPLOYED/UNASSIGNED (2)	FROM 01/03/05 TO 02/13/05 A.M.		\$.0750
END REASON: REMOVED AT INMATES REQUEST			MTWTFSS YYYYY__
TITLE STUDENT	ITEM 403065	FAC FIVE POINTS	
SHOP ELECTRICAL TRADES	FROM 01/03/05 TO 01/30/05 P.M.		\$.1583
END REASON: LATERAL PROGRAM CHANGE			MTWTFSS YYYYY__
TITLE INDUSTRIES WORKER I	ITEM 922156	FAC FIVE POINTS	
SHOP IND. FOOD SERVICE-NON TRAINING	FROM 12/13/04 TO 01/02/05 PM/EVE		\$.1600
END REASON: REACHED ON WAITING LIST			MTWTFSS YYYYY__
TITLE INDUSTRIES WORKER I	ITEM 922217	FAC FIVE POINTS	
SHOP IND. FOOD SERVICE-NON TRAINING	FROM 12/06/04 TO 12/12/04 AM/PM/E		\$.1600
END REASON: LATERAL PROGRAM CHANGE			MTWTFSS YYYYY__
TITLE INMATE MOBILITY ASSISTANT 1	ITEM 110302	FAC FIVE POINTS	
SHOP B BLOCK (1)	FROM 10/18/04 TO 12/05/04 A.M.		\$.2000
END REASON: REMOVED AT INMATES REQUEST			MTWTFSS YYYYY__
TITLE INMATE MOBILITY ASSISTANT 1	ITEM 110303	FAC FIVE POINTS	
SHOP B BLOCK (1)	FROM 10/18/04 TO 12/05/04 P.M.		\$.2000
END REASON: REMOVED AT INMATES REQUEST			MTWTFSS YYYYY__

BATES # 000043

(exh. b) TF)

06/20/11 SIPY010 INMATE PROGRAM ASSIGNMENT *FPMS* PAGE 008

CURRENT FACILITY: 690 - SULLIVAN

DIN: 91A0169 NAME: RICHARD, JOHN W

TITLE INDUSTRIES WORKER I ITEM 922527 FAC ELMIRA
 SHOP IND. FOOD SERVICE-NON TRAINING FROM 09/09/02 TO 12/15/02 PM/EVE \$.1600
 END REASON: REMOVED FOR DISCIPLINARY REASONS MTWTFSS
 YYYYY__

TITLE UNKNOWN ITEM 068997 FAC ELMIRA
 SHOP IDLE/SPECIAL HOUSING (2) FROM 08/19/02 TO 09/08/02 AM/PM \$.0000
 END REASON: COMPLETED DISCIPLINARY SANCTIONS MTWTFSS
 YYYYY__

TITLE INDUSTRIES WORKER I ITEM 922509 FAC ELMIRA
 SHOP IND. FOOD SERVICE-NON TRAINING FROM 07/22/02 TO 08/18/02 PM/EVE \$.1600
 END REASON: REMOVED FOR DISCIPLINARY REASONS MTWTFSS
 YYYYY__

TITLE STUDENT ITEM 426227 FAC ELMIRA
 SHOP SMALL ENGINE REPAIR FROM 07/15/02 TO 07/21/02 P.M. \$.1583
 END REASON: REACHED ON WAITING LIST MTWTFSS
 YYYYY__

TITLE UNKNOWN ITEM 050148 FAC ELMIRA
 SHOP UNEMPLOYED/UNASSIGNED (10) FROM 03/25/02 TO 07/14/02 P.M. \$.0750
 END REASON: REMOVED FOR PROGRAMMATIC REASONS NOT LISTED MTWTFSS
 YYYYY__

TITLE PORTER I ITEM 602967 FAC ELMIRA
 SHOP PHYSICAL EDUCATION (3) FROM 03/25/02 TO 07/21/02 A.M. \$.1000
 END REASON: REACHED ON WAITING LIST MTWTFSS
 YYYYY__

TITLE PHASE I TS ORIENTATION ITEM 690156 FAC ELMIRA
 SHOP PHASE I TS ORIENTATION FROM 03/11/02 TO 03/24/02 AM/PM \$.1000
 END REASON: PROMOTED OR SUCCESSFULLY COMPLETED PROGRAM MTWTFSS
 YYYYY__

TITLE UNKNOWN ITEM 020111 FAC ELMIRA
 SHOP RECEPTION (20) FROM 03/04/02 TO 03/10/02 AM/PM \$.0750
 END REASON: INITIAL ASSIGNMENT MTWTFSS
 YYYYY__

TITLE STUDENT ITEM 572437 FAC UPSTATE
 SHOP TUTORING (1) FROM 11/20/01 TO 02/21/02 EVENING \$.0000
 END REASON: TRANSFERRED OR RELEASED MTWTFSS
 YYYYY__

TITLE THERAPEUTIC PARTICIPANT I ITEM 067169 FAC UPSTATE
 SHOP IDLE/SPECIAL HOUSING (1) FROM 11/05/01 TO 02/25/02 AM/PM \$.0000
 END REASON: AUTO CLOSED BY INMATE ACCOUNTS MTWTFSS
 YYYYY__

TITLE UNKNOWN ITEM 068320 FAC AUBURN
 SHOP IDLE/SPECIAL HOUSING (2) FROM 10/08/01 TO 10/19/01 AM/PM \$.0000
 END REASON: AUTO CLOSED BY INMATE ACCOUNTS MTWTFSS
 YYYYY__

exh biff

NEW YORK STATE
DEPARTMENT OF CORRECTIONAL SERVICES

FIVE POINTS CORRECTIONAL FACILITY

M E M O R A N D U M

TO : DSP ZENZEN

FROM : SR. CC DIGNEAN *Sr CC Digneau*

DATE : 4/11/07

SUBJECT : RICHARD, J. 91A0169 9-A1-18T
FPT-17029-07

.....
RICHARDS, J. 91A0169 WROTE ME REQUESTING TO BE SEEN AT PROGRAM COMMITTEE TO PICK A SECOND PROGRAM. I RETURNED A RESPONSE TO HIM ON 3/26/07 INFORMING HIM THAT HE WOULD BE SCHEDULED FOR PROGRAM COMMITTEE. HE WAS PLACED ON A PROGRAM COMMITTEE CALLOUT ON 3/28/07.

RICHARDS DEMANDED A JOB IN 10 BLOCK. HE IS HOUSED IN 9 BLOCK. I EXPLAINED TO HIM THAT THE FACILITY DOESN'T MOVE INMATES FROM ONE BLOCK TO ANOTHER FOR PORTER OR UTILITY ASSIGNMENTS. HE CONTINUED TO DEMAND TO BE MOVED TO 10 BLOCK FROM 9 BLOCK. I AGAIN INFORMED HIM THAT PROGRAM COMMITTEE DOESN'T DO BLOCK MOVES UNLESS REQUIRED BY A PROGRAM NEED. HE CONTINUED TO ARGUE WITH ME ABOUT BEING MOVED AND GETTING A JOB ON 10 BLOCK. I OFFERED HIM A PORTER, REC AIDE, OR UTILITY GANG ON 9 BLOCK. HE REFUSED THESE PROGRAMS AND AGAIN DEMANDED TO BE MOVED TO 10 BLOCK. I NEVER OFFERED HIM A PROGRAM AS A MOBILITY ASSISTANT.

I DID DISCUSS RICHARD'S DISCIPLINARY RECORD WITH HIM AS I DO WITH ALL INMATES AT PROGRAM COMMITTEE. HIS DISCIPLINARY RECORD CONSISTS OF WEAPONS, DRUGS, ASSAULT ON INMATES, UNAUTHORIZED ORGANIZATION ACTIVITY, LEWD CONDUCT, NUMEROUS FIGHTS, AND NUMEROUS TIER 2'S. DISCIPLINARY HISTORY IS A FACTOR WHEN PROGRAMMING INMATES WITHIN A CORRECTIONAL FACILITY.

I NEVER MADE ANY RACIAL STATEMENTS, NEGATIVE RELIGIOUS STATEMENTS, OR STATEMENTS REGARDING HIS INTELLIGENCE. I ALSO NEVER MADE THE STATEMENT "YOU SHOULD BE IN PRISON THE REST OF YOU LIFE". I NEVER USED ANY VULGARITY TOWARDS RICHARD DURING THE CONVERSATION.

RICHARD LEFT THE ROOM STATING HE DOESN'T WANT ANY OF THOSE PROGRAMS. HE WAS LEFT UNASSIGNED FOR A HALF MOD.

(exh, b7A)
(exh, b7C G)

Lt. Giannino: If you do, you have to ask them through me. And if I feel that they are in fact pertinent to this hearing, I will allow them. Do you understand that?

Inmate: Yes.

Lt. Giannino: Okay.

Inmate: Uh, was it intent to give me a 9 block programs than uh, isolation to keep me in 9 block.

Lt. Giannino: Uh, Mr. Tanea, was your assignment of inmate Richard in 9 block uh, some type of way of keeping him in 9 block?

SCC Tanea: No.

Inmate: Is there anything in writing that verifies, saying that uh, pro, we have to program by the blocks were in?

Lt. Giannino: Is there anything uh, in the policy or uh, statement that uh, would keep an inmate in the block that he's in as far as his program assignment?

SCC Tanea: As far as his program assignment?

Lt. Giannino: Yeah.

SCC Tanea: Like what? I, because we move inmates for ASAT or ART and things like that.

Lt. Giannino: Okay, uh, but

SCC Tanea: For, recommended programs.

Lt. Giannino: Okay, well, if he's like in 9 block,

SCC Tanea: Yes.

Lt. Giannino: If he's housing in 9 block is it uncommon for an inmate to be assigned to another block?

Inmate: Objection, objection, I didn't say it was uncommon? I said in writing

Lt. Giannino: Oh, okay, in writing?

Inmate: In writing

(exhibit H)

Lt. Giannino: Was it in writing?

SCC Tanea: Is it in writing?

Lt. Giannino: Yeah, that he has to uh, remain in 9 block as far as the program assignment's concerned?

SCC Tanea: No.

Lt. Giannino: Okay, any other questions?

Inmate: (unintel) right now.

Lt. Giannino: Alright, thank you Mr. Tanea, Mr. Tanea is do, you know if Ms. Digneau is working today?

SCC Tanea: Yes, she is.

Lt. Giannino: Is she at an extension I can reach her?

SCC Tanea: Check 4305.

Lt. Giannino: 4305, thank you for your time.

SCC Tanea: Okay, bye.

Lt. Giannino: Yup, bye. (Dialing phone).

W. Kerry: Guidance, Wendy speaking.

Lt. Giannino: Wendy, Lt. Giannino, I'm looking for Ms. Digneau.

W. Kerry: Just a moment.

SCC Digneau: Digneau

Lt. Giannino: Hi, Digneau, this is Lt. Giannino how are you?

SCC Digneau: Good, what's up?

Lt. Giannino: Uh, I am in the middle of a Tier II hearing, that I'm holding on an inmate Richard.

SCC Digneau: Uh, huh.

Lt. Giannino: He was issued a misbehavior report by Mr. Tanea.

(exhibit 1)

SCC Digneau: Yes.

Lt. Giannino: On June 14th at around 9 am for uh, the charge is 180.18 program committee procedures. Uh, and inmate Richard has requested you as a witness. Uh, are you familiar with inmate Richard?

SCC Digneau: Yes, I am.

Lt. Giannino: Okay, uh, can you tell me is this misbehavior report that was issued by Mr. Tanea any form of retaliation for uh, supposedly he had filed some grievances against you and the uh, program committee is this in any form of a retaliation?

SCC Digneau: No.

Lt. Giannino: Okay, are you familiar with some grievances that inmate Richard filed?

SCC Digneau: Yes, he's filed one grievance on me.

Lt. Giannino: Okay. Alright at this point inmate Richard do you have any questions for Ms. Digneau?

Inmate: Yes, uh, if she refused to assign me the programs that I requested both times (unintel) is it in writing that I have to stay in 9 block for programming?

Lt. Giannino: Uh, did you hear the question Ms. Digneau?

SCC Digneau: I didn't.

Lt. Giannino: Alright, he's, his question is, is it ah you know him being in 9 building, does he have to stay in 9 building as far as programming?

SCC Digneau: That would be up to the program committee chairperson right now.

Lt. Giannino: Okay,

Inmate: I asked if that was in writing that she can do that, she can

Lt. Giannino: Alright is it in writing someplace that uh, he has to remain in 9 building as far as a program assignment is concerned as he resides in 9 building?

SCC Digneau: Is it in writing? I don't believe it is, no.

Lt. Giannino: Okay.

(Exhibit H)

Inmate: I didn't only file a grievance, I filed another, a second complaint on 5/11. I sent her a copy of it.

Lt. Giannino: Uh, Ms. Digneau are you familiar with a civil service complaint that inmate Richard had filed against you?

SCC Digneau: No.

Lt. Giannino: Okay,

Inmate: I, um, did she train the program guy, that uh,

Lt. Giannino: Alright, you have to speak up a little more clearly

Inmate: A prog, a program, did she train the guy that was in the program committee right now, Mr. Tanea.

Lt. Giannino: Uh, have you in any way trained uh, or had anything to do with Mr. Tanea. (tape ends)

Okay today's date is June 18th, 2007 the time is now 11:33 am, my name's Lt. Giannino, this is a continuation of a Tier II hearing being held on inmate Richard, present in the 9 building hearing room with me is.

Officer Jones: Officer Jones

Lt. Giannino: And inmate Richard, name and number?

Inmate: John Richard 91A0169.

Lt. Giannino: And on speaker phone I have uh, Senior Correction Counselor Ms. Digneau. Please identify yourself ma'am.

SCC Digneau: Senior Correction Counselor Digneau.

Lt. Giannino: Okay, uh I guess the last question was uh, before the other tape ended was uh, did you any way have anything to do with the training of Mr. Tanea and his ability to conduct a program committee?

SCC Digneau: Yes.

Lt. Giannino: Okay.

Inmate: Was he present at the time that I appeared before you?

(exhibit H)

Lt. Giannino: Alright, Ms. Digneau was he present at any time during inmate Richard's previous program committees that you had held?

SCC Digneau: No.

Lt. Giannino: Okay.

Inmate: Did she speak to him about me?

Lt. Giannino: Ms. Digneau, did you in any way spoken to inmate Tanea, prior to him having, him conducting a program committee about inmate Richard?

SCC Digneau: You mean Senior Counselor Tanea?

Lt. Giannino: Yes.

SCC Digneau: (unintel) (laughs)

Lt. Giannino: I'm sorry what was that?

SCC Digneau: You said inmate Tanea.

Lt. Giannino: I'm sorry, yeah.

SCC Digneau: Oh.

Lt. Giannino: Mr. Tom Tanea, Senior Correction Counselor.

SCC Digneau: He was aware of his case.

Lt. Giannino: Okay.

Inmate: Um,

Lt. Giannino: In what aspect was he aware of his case?

SCC Digneau: Well, he was outside the room when (unintel).

Lt. Giannino: Any other questions?

Inmate: Was there other programs available to me at the time? That I would appear before you twice?

Lt. Giannino: I don't recall those hearings, I didn't do them? Were there any other programs available to Mr. Richard, on the both previous occasions, is that what your referring to?

(Exhibit H)

Inmate: Yes.

Lt. Giannino: Both previous program committee appearances.

SCC Digneau: Yes, there was.

Lt. Giannino: There was, okay. Alright thank you for your testimony Ms. Digneau.

SCC Digneau: Yup.

Inmate: (unintel) I know numerous people who don't have, who have one program, it is not necessary to take 2 programs, (unintel) I've been in jail 18 years. (unintel).

Lt. Giannino: (Dialing phone)

SCC Tanea: Program committee, Tanea.

Lt. Giannino: Hello, Mr. Tanea, Lt. Giannino again I am uh, still doing a Tier II hearing on inmate Richard and he is once again requested that you uh, as witness for uh some other questioning, please identify yourself for the record?

SCC Tanea: Thomas Tanea, Senior Counselor for Program Committee.

Lt. Giannino: Okay, uh, your question for Mr. Tanea,

Inmate: Right uh,

Lt. Giannino: Can you ask him

Inmate: What was my program needs?

Lt. Giannino: What's that?

Inmate: What was my program needs?

Lt. Giannino: Uh, do you recall inmate, uh, Mr. Tanea, what inmate Richard's program need was?

SCC Tanea: His program needs are?

Lt. Giannino: Yeah, or was.

SCC Tanea: I could look it up.

Richard H.

United States District Court
 Western District of New York (lot 8)
John Willis Richard 9/16/16 9 (Exhibit I)
 Plaintiff Plaintiff's First
 v Request for Pro-
 Jennifer Digneau et al duction of Documents
Defendant

11-CV-6013 EAW/mux

I John Willis Richard, Plaintiff Pose
 presents this motion to defendants to the
 best of my ability/knowledge. Pursuant to Rule 26
 and rule 34 of the Federal Rules of Civil Procedure
 Plaintiff/I request that the defendants Digneau
 and Tarea produce the following documents
 within 30 days after service. You ~~are to~~ must
 respond to, and produce each request separately
 with either production, or objection. If you
 object to the request, it must state the
 reasons for objection and shall produce to
 the extent that is not objectionable. If the
 party does not know where the document is
 to a request right away, you must make
 a reasonable inquiry to find it. This re-
 (Exhibit I)

(2018)
quest may involve asking questions of other people and reviewing relevant records.
Rule 34(b) et al. (34)(1)

1) All documents that contain, mention, construe or refer to policies, memorandums on program committee chairman positions/powers at Five Points Correctional Facility.
in regards to inmate programming,

2) The program committee policy, memorandum that inmates cannot program outside of their block, once positioned in that block as used by defendants in this complaint.

3) The 9/5/07 disciplinary packet of the report by defendant Tarea, including the tier hearing minutes, disposition sheets, witnesses request ~~denied~~ denial sheets.

4) 9/18/07 grievance and related documents, investigation(s) reports/responses et al #FPT 18071-07 (exhibit I)

(3 of 8)

5) DOCCS Employee ^{manual} ~~handbook~~ handbook rule book, given to all DOCCS employee for guidelines of their duties.

6) Five Points facility, cell block move sheets between 3/14/07 - 4/11/07 for the 3/28/07 grievance. Please redact, all inmates names and din #s

7) Five Points facility, cell block move sheets between 4/26/07 - 5/23/07 for the 5/9/07 appearance before ~~the~~ defendant Dignan.

8) Five Points facility, cell block move sheets between 6/1/07 - 6/28/07 for the 6/14/07 disciplinary report by defendant Tanea.

9) Five Points facility, cell block move sheets between 8/26/07 - 9/23/07 for the 9/5/07 disciplinary report by defendant Tanea (exhibit I)

(4078)

- 10) Five Points Facility, cell block move sheets between 6/1/00 - 7/30/10 to prove no block isolation policy, memo ever existed from prior grievances of Plaintiff's that was enforced on any other inmates. Please redact all names and din#s from sheets
- 11) The "kipy" system and/or ~~program~~ ^{open program} availability sheets between 3/14/07 - 4/11/07 for 3/28/07 grievance.
- 12) The "kipy" system and/or open program availability sheets between 4/26/07 - 5/23/07 for the second 5/9/07 appearance before defendant Dignean.
- 13) The "kipy" system and/or open program availability sheets between 6/1/07 - 6/28/07 for the 6/14/07 disciplinary report by defendant Tarea

(exhibit I)

(Saf8)

14) The "Kipy" system and/or ^{open} program availability sheets between 8/26/- 9/23/07 for the 9/5/07 disciplinary report by defendant Tanea.

15) 8/22/07 grievance # FPT 17830-07 packet, including investigation report(s), response(s) decisions et. al.

16) All disciplinary reports, incidents of racial/discriminatory actions, gestures, comments or retaliation's by defendant Digneau between January 2007 - September 2007 while her position as Program Committee chair manager at Five Points Facility.

17) All grievance's filed against defendant Digneau while at Five Points Correctional Facility. between January 2007 - September 2007.

18) All disciplinary reports, incidents of racial/ (Exhibit I)

(6028)
 discriminatory actions, gestures, comments or retaliation's by defendant Tanea between April 2007 - June 2008 while his position as Program Committee Chair man at Five Points Facility.

19) All grievances filed against defendant Tanea while at Five points correctional Facility between April 2007 - June 2008.

20) Five Points Facility, cell block move sheets between July, 1st - 14th, please redact all names and #numbers of inmates. This is relevant only if the 2007, 2010 sheets are not available as it shows the block isolation policy was not used as a facility policy and was not used against other inmates.

Reserve Rights

21) I reserve the right to supplement this document production request as defendants answer the motions filed.
 (Ex. 1 - 1 - P.T.)

(7 of 8)

I John Richard declares under the penalty of perjury, that this Request for documents is true and correct on this 20th day of July, 2016.

Dated 7/20/16

CC, file

Respectfully

John Richard
John Richard

91A0169

Attica Correctional
Facility

PO Box 149

Attica, NY 14011

(Exhibit F)

IN THE UNITED STATES DISTRICT COURT
for the WESTERN DISTRICT of NEW YORK

JOHN WILLIS RICHARD
Plaintiff

V

JENNIFER DIGNEAN, senior correctional counselor,
FIVE POINTS COORRECTIONALY, et al,
DEFENDANT

PLAINTIFFS FIRST
set of interrogatories
to defenant JENNIFER
DIGNEAN

CIVIL ACTION
6;11-cv-6013 EAW?MWP

In accordance with RULE 26 and RULE 33 of the FEDERAL
RULES of CIVIL PROCEDURE, the Plaintiff requests that DEFENDANT
JENNIFER DIGNEAN answer the following interrogatories under OATH,
and that the answers be signed by her. Also that this be served on
Plaintiff within 30 days of service of these interrogatories.

If you cannot answer the following interrogatories in
full, after exercising due diligence to secure the information to
do so, so state it and answer to the extent possible, specifying your
inability to answer, however you must answer to the best of your
knowledge and information as to the things you do know.

These interrogatories shall be deemed continuing, so as
to require supplemental answers as new and different information
materializes.

1) Please describe in as much detail as possible, who trained you
for the program committee chairman position?

2) Please describe in as much detail as possible, the training you
received for that position in regards to DIRECTIVES and facility
POLICIES.

3) Please describe in as much detail as possible, the function of

(exhibit J)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOHN WILLIS RICHARD

PLAINTIFF

V

PLAINTIFFS FIRST SET OF
INTERROGATORIES TO
DEFENDANT THOMAS TANEA

JENNIFER DIGNEAN, Correctional counseelor,

FIVE POINTS CORRECTIONAL FACILITY, et al.

CIVIL ACTION 6:11-cv-6013
EAW/MWP

In accordance with rule 26 and RULE 33 of the FEDERAL RULES of CIVIL PROCEDURE, the PLAINTIFF requests that defendant THOMAS TANEA answer the following interrogatories under OATH, and that the answers be signed by him. Also that this be served on Plaintiff within 30 days of service of these interrogatories.

If you cannot answer the following interrogatories in full, after exercising due diligence to secure the information to do so, so state it and answer to the extent possible, specifying your inability to answer, however, you must answer to the ~~THE~~ best of your knowledge and information as to the things you do know.

These interrogatories shall be deemed continuing, so as to require supplemental answers as new and different information materializes.

- 1) Please describe in as much detail as possible, WHO trained you for the program committee chairman position to follow directives in effect in 2007, and prior to 6/14/07
- 2) Please describe in as much detail as possible, identifying what date you took the position as program committee chairman.
- 3) Please describe in as much detail as possible, the full function of a "WAITING LIST" for requested programs.

(Exhibit K)

United States District Court
Western District of New York

John Willis Rickard 9/1A0169
Plaintiff

v
Jennifer Digneau et al
~~Defendants~~

(Exhibit L)

Request for 1st
Set of Admission
to Jennifer
Digneau

Doc # 11-CV 6013

Pursuant to Rule 26(b)(1) and Rule 36 of the Federal rules of civil Procedure. Plaintiff requests that defendant Jennifer Digneau admit/make admissions of truth of any matter within the scope of Rule 26(b)(1) set forth in the request that relate to statements or opinions of fact or the application of law to fact, including the genuineness of any document described in the request.

Failure to admit

A defendant that fails to admit an undisputed matter may be punished in court etc. Fed R. Civ. P. 37(c)(2) that if an answer. Party fails to admit the genuineness of any document ~~or~~ that or the truth of the

Exhibit L)

(2 of 16)

matter as requested and the plaintiff later proves it in court" the requesting party may apply to the court for an order requiring the defendants to pay reasonable expenses incurred in making that proof."

Complete in 30 days

You must respond within 30 days after service. If you do not respond in 30 days the request for admissions will be deemed admitted Fed R Civ. P 36(a). Defendants must either object, stating the reasons for the objections. Respond "admit" or "deny" or set forth in detail the reasons why the answering defendants cannot truthfully admit or deny the matter. A defendant may not refuse to answer a request for admissions on the ground that the defendant does not have the relevant information or knowledge without first making a reasonable inquiry into the matter.

Application of State Laws
etc. Per 5/12/16 conference

) Per the 5/12/16 conference Hon. Wilford

United States District Court
Western District of New York

(1 of 18)

John Willis Richard 9/10/69
v Plaintiff

Jennifer Pignean et al
Defendants

Request for 1st
Set of Admissions
to Thomas Tanea

Doc. # 11-CV-6013

Pursuant to Rule 26(b)(1) and Rule 36 of the Federal rules of civil Procedure, Plaintiff requests that defendant Thomas Tanea admit/make admissions of truth of any matter within the scope of Rule 26(b)(1) set forth in the request that relate to statements or opinions of fact, application of Law to fact, including the genuineness of any document described in the request.

Failure to admit

A defendant that fails to admit an undisputed matter may be punished in court etc. Fed Rule Civ. P 37(c)(2) that if an answering Party fails to admit the genuineness of any document or the truth of the matter as requested and the plaintiff later proves it in court for an order requiring the defendants to pay reasonable expenses incurred in making that proof... 11 Exhibit m

(2018)
Complete in 30 days

You must respond within 30 days after service. If you do not respond in 30 days the request for admissions will be deemed admitted. Fed R Civ P 36(b). Defendants must either object, stating the reasons for the objections. Respond "admit" or "deny" or set forth in detail the reasons why the answering defendants cannot truthfully admit or deny the matter. A defendant may not refuse to answer a request for admissions on the ground that the defendant does not have the relevant information or knowledge without first making a reasonable inquiry in to the matter.

Application of State laws
etc. Per 5/12/16 conference

Per the 5/12/16 conference Hon Wulford authorized the applicability of state laws, regulations for discovery purposes and upon such review, will consider the applicability of using state laws, regulations etc. in this suits litigation. (exhibit in)

United States District Court
Western District of New York

(Vol 10)

John Willis Richard
91A0169
Plaintiff

✓

Response to
Initial Disclosures

Jennifer Digneau and
Thomas Tanea
Defendants

11-CV-6013 EAW

Plaintiff received defendant's initial
discovery disclosure and position. Plaintiff
Response as follows:

A) Plaintiff reserves the right to supplement
discovery requests upon the decision and order
of the reconsideration presently pending
before the district court. As an amendment
was sought and may apply to restored
defendants that were previously dismissed
as defendants.

B) Plaintiff will move this court to request
discovery if dismissed defendants
are restored.

(exhibit A)

(2010)

C) Although your disclosures fails to include the requested documents for discovery, initially outlined in pages 19-30 of my Reply to your motion to dismiss. Please rereview it.

D) Of Note your B(2) discovery of disciplinary hearing transcripts testimony of Agnew and Tanea at pages 5-8, 10-12, 14-15, 22-30 actually admits to pett
on's allegations.

You should really consider these facts for Settlement

E) Additionally, these same hearing transcripts pages above prove your Answer is false! I may have to ask/file a motion to compel you to refile your answer due to the transcripts proofs.

F) I will be calling experts at LRA (for;
1) Program committees policies and waiting list definition (You disclosed "inmate program assignment" which proves a many facilities including Fivepoints that I put in for waiting lists programs and received them.
This is evidence against you! (see pages 1-6, 8-9, 11)
(att. LRA)

(3 of 10)

2) Inspector General for disciplinary actions against staff and code of Silence tactics etc.

3) Senior Correctional Counselor for effects of 180.18 program refusals.

6) Other than the racial discrimination, harassment, retaliation's for damages. There exists Program refusal Notification (ex A) which equals a 180.18 charge for future use against an inmate as it.

1) "May result in... ineligibility for an area preference transfer. In addition, refusal to participate may affect placement in an... Honor block program housing and family reunion program" (if and when I intend to get married) (ex A)

H) These injuries are now an automatic guarantee of denials of Honor block, transfers and Family reunion program along with the retaliatory disciplinary actions. enforced by ~~the~~ known unwritten rules designed for me to simply conform to

(exhibit A)

(Cheerleading on 390 US 333, Johnson v California, 543 US 499)
 racist, discrimination, intimidation as
 indicated in the 9/11/07 Supt. reply, in the
 FPT 17630-07 grievance reply, starting?

"Complying with the rules will
 assist you in not only receiving
 a program assignment, but remain-
 ing in a program in order to
 learn skills"

I @) Yet there was no written rule of isolat-
 ing programming in the block your in
 "rule" in existence to follow as the hearing
 minutes pages 7-8

"Lt. Giannino: Alright is it in writing
 some place that uh, he has to remain
 in 9 building as far as a program ass-
 ignment is concerned, as he resides in
 9 Building?"

SCC Dignear: Is it in writing? I
 don't believe it is, no...

Inmate: Did she speak to him about me?...
 Tanea...

SCC Dignear: He was aware of his case."
 (cont. H.P. M)

(5 of 10)

J) Therefore, the result of the continued violations of retaliation, racism, conspiracy intimidation, I was forced to ~~receive~~ receive injuries past and future A) 2 separate but similar disciplinary reports by retaliation of my written complaints. B) Future denials of preference transfers C) Honor Block Program D) F.R.P. (railer marriage visits) as the refusals are automatically placed in my program, and guidance files (Morrissy v Brewer 408 US 471 ~~for~~ Turner v Safley supra) to ensure protocols and procedures are followed for enforcement of the two (2) denials. These 4 injuries are automatically imposed.

Applicable laws

K) I believe your denial of damages is based upon my failure to allege nominal and declaratory relief in the suit, as I researched the punitive and compensatory damages under 7th/14th Amendments. So I see my error. So most likely your counting on that by law. However, there are 2 areas you failed to acknowledge.

Prison regulation review under
(Exhibit A)

(60810)
Turner v Soble, test

1) Even with my failure to allege nominal and declaratory reliefs there is applicable law that it's possible that a court ruling on this at Trial. *Cassidy v Indiana Dept. of Corr.* 59 F.2d 787, *Allah v Al-hafeez* 229 F.3d 247 at 251, *Perkins v Kansas Dept. of Corr.* 165 F.3d 403, *Oliver v Heller* 289 F.3d 623-630, *Park v Shifflett* 250 F.3d 843, *Turner v Soble* 482 U.S. 78, AS

"Officials may not plead conjecture upon conjecture to justify their policies" etc. (*Saldam v Rockhart* 905 F.2d 1168) "Officials cannot also claim a security rationale for policy, nor can they provide evidence in support of their rationale" (*Shiner v Washington* 100 F.3d 506)

2) Therefore Mr Benton, the defendants need valid explanations and further supports in order to make the defenses in a summary judgment motion and trial, no conclusory assertions are allowed without explanations, *Walker v Sumner* 917 F.2d 382. Basically the hearing minutes are against you on these.
 (exhibit A)

in mind a
figure out
kind of su
- 11

Ex 1

(80210)

merman v Tribble 206 F3d 568, Johnson v
Stovell 233 F3d 486 at 489, Rowe v Shake
196 F3d 778)

P) I will most likely file a motion for you to
refile your Answer admitting aspects
from the Dignear in negotiation report and
her hearing minutes where you'll have
to ~~admit~~ admit defendant's blatant viol-
ations.

Q) With these things in mind I hope you
reconsider your settlement offer, if not
I'll go to trial and for it's experience for
future suits.

R) Also you sent me some reports regard-
ing assault on an inmate by staff etc.
I'm not sure why you sent it to me it
doesn't belong in my case. Although, that
did just happen to me and a suit will
be filed, it don't mean give up this one, it
goes for more experience under my belt for
failures in this one. I will be more prepared.
As now those facts are totally in my favor as is
this suit.

~~Wait~~ I want your reply!

United States District Court
Western District of New York

(1 of 19)

John Willis Richard 91A0169
Plaintiff

Reply to defend-
ant's Request for
Production of Docu-
ments

✓
Jennifer Digneau et al.
Defendants

11-CV-6013 EAW

This Reply by John Willis Richard, Pro se, is to the best of my knowledge as this facility (Attica) extremely restricts inmates access to the Law Library one (1) mod a week = anywhere between 45 minutes to 2 1/2 hours. Special access, is 2 mods a week contrary to every day access by all other facilities I've been at.

This Reply relates to Damages computations for each claim and the documents in support, attached to this Reply identified by numbers to the Damages computations.
(exhibit 0)

(2 of 19)

Damages Computation: with
documented evidence for trial
in support, numbered for non
redundancy

Against defendant Dignear

A) Racial discrimination for the 3/28/07 appearance # 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, ~~18~~ 18, 22, 23, 24, 33, 34, 35, 36. Settlement Damages \$5,000

B) Racial discrimination for the 5/9/07 appearance # 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 17, 19, 21, 22, 23, 24, 25, 26, 27, 31, 33, 34, 35, 36. Settlement Damages \$

C) Racial discrimination for the 6/14/07 disciplinary report tier hearing testimony # 31, 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, ¹⁴ 16, 20, 22, 23, 24, 25, 26, 33, 34, 35, 36. Settlement Damages \$

D) Religious Discrimination for the 3/28/07 appearance # 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 16, 18, 22, 23, 24, 25, 26, 27, 31, 33, 34, 35, 36. Settlement Damages \$5,000

e) Religious Discrimination for the 5/9/07 appearance
(exhibit 0)

(3 of 19)

#1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 15, 19, 22, 23, 24, 25, 33, 34, 35, 36. Settlement Damages \$ 5,000

F) Religious Discrimination for the 6/14/07 report #1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, ¹⁴16, 18, 19, 20, 22, 23, 24, ~~25~~, 26, 27, 31, 33, 34, 35, 36. Settlement Damages \$ 5,000

G) Religious Discrimination for the ~~9/9~~ 9/5/07 report #1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36. Settlement Damages \$ 5,000

H) Racial discrimination for the 9/5/07 report #1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36. Settlement Damages \$ 5,000

I) Unequal Protection/Singled out for the 3/28/07 appearance #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 18, 22, 23, 24, 25, 33, 34, 35, 36. Settlement damages \$ 5,000

J) Unequal Protection/Singled out for the 5/9/07 appearance #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 22, 23, 24, 25, 33, 34, 35, 36. Settlement

damages \$ 10,000 (4 of 19)

K) Unequal Protection/singled out; for the 6/14/07 report # 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 22, 23, 24, 25, 26, 27, 31, 33, 34, 35, 36. Settlement damages \$ 10,000

L) Unequal Protection/singled out; for the 9/5/07 report # 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36. Settlement Damages \$ 10,000

M) Retail Retaliation for complaints; for the 5/9/07 appearance # 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 22, 23, 24, 25, 33, 34, 35, 36. Settlement damages \$ 10,000

N) Retaliation for complaints; for the 6/14/07 report # 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 22, 23, 24, 25, 26, 27, 31, 33, 34, 35, 36. Settlement damages \$ 10,000

O) Retaliation for complaints; for the 9/5/07 report # 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36. Settlement damages \$ 10,000 - (exhibit 6, PO)

(5 of 19)

Against defendant Tanea

P) Racial discrimination related to the 3/28/07 grievance ~~# 1-36~~ # 1-36. Settlement damages \$ 5,000

Q) Racial discrimination related to the 5/9/07 appearance # 1-36 settlement damages \$ 5,000

R) Racial discrimination ~~related to the~~ 6/14/07 report # 1-36. Settlement damages \$ 5,000

S) Racial discrimination ~~related to the~~ 9/5/07 report # 1-36. Settlement damages \$ 5,000

T) Religious discrimination related to the 3/28/07 grievance # 1-36. Settlement damages \$ 5,000

U) Religious discrimination related to the 5/9/07 appearance # 1-36. Settlement damages \$ 5,000

V) Religious discrimination. for the 6/14/07 report #

(6 of 19)

1-36. Settlement damages \$ 5,000

W) Religious discrimination for the 9/5/07 report #
1-36. Settlement damages \$ 5,000

X) Retaliation for grievances; for the 3/28/07
grievance # 1-36. Settlement damages \$ 80,000

Y) Retaliation for grievances; for the 5/9/07
appearance. # 1-36. Settlement damages \$
10,000

Z) Retaliation for grievances; for the 6/14/07
report. # 1-36. Settlement damages \$ 10,000

AA) Retaliation for grievances; for the 9/5/07
report. # 1-36. Settlement damages \$ 10,000

Defendant Digneau's 9-block isolation of programs only in 9-block extended to defendant Tanea. Following the unwritten policy in order to punish plaintiff/me in both the 6/14/07 and 9/5/07 reports, otherwise Tanea would not have isolated my programs to only 9-block. Using the very same tactics that ~~the~~ Digneau did.

(7219)

BB) Back pay/loss wages for the 6/14/07 report for ~~the~~^{SIX} months until 12/15/07. damages \$ 500

CC) lost/injury ~~reports~~ affecting, Parole, FRP, Honor block etc. # 8 for the 6/14/07 and 9/5/07 reports. Settlement damages \$ 30,000

Additional proofs will reveal evidence from the request for documents ~~from~~ for Plaintiff, the ~~interrogatory~~ interrogatories and request for admissions from this Plaintiff. At the present the 6/14/07 hearing minutes # 31 are the most damaging from the defendants.

Settlement agreement suggestion

\$ 50,000; (a trial, will be the full amounts alleged in the complaint.)

(5 of 19)

United States District Court
Western District of New York

John Willis Richard 9/10/69
Plaintiff

✓
Jennifer Digneau et al.
Defendants

Documents in
support of Reply to
defendants Request
for Production of
documents

11-CV-6013 EAW

A) Upon this production of Partial documents, it's based upon documents, presently in my possession, and are enclosed.

B) Any numbered section that has a star(*) in front of it, are not in my possession and I reserve the right to supplement this Reply with documents as soon as they are disclosed by the defendants from my Request for documents from them.

(9 of 19)

C) Any, numbered section with a triangle (A) in front of it are documents, only sent to the court for their records, because defendants already possess the documents as they turned them over to me.

D) The case laws/statutes/directives cited, support the causes of action raised and can be found on your computer as I do not have the funds to cover the costs of production.

Documents

- 1) 3/28/07 grievance #FPT 17830-07
- 2) Defendant Dignear's 4/11/07 response
- 3) Grievance Directive 4040 (pgs 1, 13)
- 4) 6/23/07 Correctional Law 138.14 complaint

(12 of 19)

shall discharge his duties and comport himself, so as to carry out the programs and policies of the department...

Programming inmates...

For word... current information that outlines your duties and responsibilities under departmental policies and directives... the Correctional Law... Civil Service Law, title 7 codes... violations of any rule, regulation, or directive may be cause for appropriate disciplinary or administrative action..."

★ 12) Directive 4802 (from 2007) sections in part "II... idle... unemployed... full time... ~~part time~~ half-time... Temporary assignment etc..." "...race, religion"

★ 13) Directive 4803 (from 2007) III... IX (B)(2)(3)(4)(5)(C)(3)(4), Limited Privilege Program Status (pg 3 enclosed) "...race, religion"

★ 14) Facility block cell moves between 3/14/07-4/11/07 for 3/28/07 grievance

(10 & 19)

5) Correctional Law 138.1-6/Gaston v Coughlin 81 FS2d 381 "... NY correctional Law 138.4... correctional ~~law~~ officers are expected to be familiar with such laws governing the correctional system... must be taken as 'clearly established'... (See also Employees manual #)

6) Santiago v Miles 774 FS 775

7) DOCS Rule Book 3 pages Introduction
Pg 3, Pg 36

8) Program refusal notification/Peo v Freeman 889 NYS2d at 120 "unjustifiable risk of future adverse affects to... in other contexts, including appearances before the board of Parole..." (Johnson v Annucci 139 Ad3d 1271)

9) Inmate Program Assignment history pgs 1-2, 4-6, 8-9, 11

10) Civil Service Law 53

*11) Employee Manual rule book, -
2.1 Personal Conduct. No employee... Shall so

(11 of 19)

comport himself as to reflect discredit upon the department or its personal...

2.2 Lawful/Comportment: An employee shall not knowingly or willfully violate any law or ordinance of the United States or the State of New York or any rule, regulation or directive of the department...

2.8. Nondiscrimination; No employee shall discriminate against any person on the basis of race, color... or disability...

2.12 Language; An employee shall refrain from the use of indecent, profane, or abusive language or gestures while on duty...

3.4 Falsification of Records: No employee shall knowingly make a false or inaccurate official record or statement orally or in writing, or make, maintain, or cause or permit to be made a false or inaccurate record or false or inaccurate entry in official records...

6.11: Every employee

(13 of 19)

- * 15) Facility, block cell move ^{sheets} between 4/26/07 - 5/23/07 for second 5/9/07 appearance before defendant Digneau.
- * 16) Facility, block cell move ^{sheets} between 6/1/07 - 6/28/07 for 6/14/07 report by defendant Tanea.
- * 17) Facility, block cell move ^{sheets} between 8/26/07 - 9/23/07 for 9/5/07 report by defendant Tanea.
- * 18) The kipy system or program availability, sheets between 3/14/07 - 4/11/07 for 3/28/07 grievance
- * 19) The kipy system or program availability, sheets between 4/26/07 - 5/23/07 for second 5/9/07 appearance before defendant Digneau.

(140219)

- ★ 20) The kipy, system or program availability sheets between 6/1/07 - 6/28/07 for the 6/14/07 report by defendant Tanea.
- ★ 21) The kipy, system or program availability sheets between 8/26/07 - 9/23/07 for the 9/5/07 report by defendant Tanea.

22) *Peo v Cull* 10 NY 2d 123 on the unwritten Policy: "any one may examine in that one place what the law or rule is that has been enacted affecting his particular interest... otherwise in a case such as the present, a failure to file... would prevent him for instance of following a charge from examining the contents of the rule establishing such limitation... every rule and regulation made by... authority... ~~be~~ be filed in the office of the department of state if it is to be effective..."

23) *Chamber v Coughlin* 76 Ad 2d 980 " ~~if it were meant to be applied to an individual inmate it is ineffective~~ " At the outset it is unclear whether this applies to an entire facility, or to an individual inmate, if it were meant to be applied to an individual inmate, it is ineffective since it does not have the force of a regulation "

(15 of 19)

24) Graynard v City of Rockford 408 US 104

"First; a rule must give the person of ordinary intelligence a reasonable opportunity to know what is prohibited. Second; a rule must have specific standards so that those who enforce it, cannot do so arbitrarily and discriminatorily, and third a rule that impedes basic First Amendment freedoms, if vague leads those whose conduct is affected to more severely limit their conduct in order to avoid a violation"

25) TN/CRR 250.2 (c)(4)(e), (d)(F)

26) 6/14/07 report/disposition by defendant Tanea

27) 6/20/07 grievance (part of 8/22/07, 9/18/07 grievances, subject to redaction/stipulation)

28) 7/22/07, 8/5/07, 8/19/07 letters to defendant Tanea (part of 8/22/07 grievance)

29) 8/22/07 grievance FPT # 17830-07

★ 30) 9/5/07 report/disposition by defendant Tanea

Case 6:11-cv-06013-EAW-MWP Document 84-2 Filed 04/16/19 Page 49 of 75
11/6/19
Δ 31) Tier hearing transcripts from 6/14/07 report.

✶ 32) 9/18/07 grievance packet FPT #
18071-07 subject to redaction/stipulation

32) Langley v Coughlin 709 FS 482 at 486

33) Williams v Smith 781 Fed 913 23-4

35) Washington v Davis 426 US 229

35) Jones v Smith 120 misc 2d 445

"designed to provide notice and a common and definite place where the exact content of such rules and regulations, including any changes might be found... inmates faced with disciplinary action should have such a source available to them... This court believes that the constitutional rights of inmates are so intertwined with the disciplinary procedures as to mandate filing of these regulations" (unwritten block isolation policy)

Plaintiff reserves the right to supplement the documents in support of his complaint as the documents etc are disclosed during the discovery process.

cc: ~~the court~~ conclusion

(17 & 19)

I declare under the penalty of perjury that the above mention statements and ~~do~~ enclosed documents are true and correct on this 21st day of Aug. 2016.

Date 8/21/16

cc file
District Court Hon.
M Payson

Respectfully,
John Richard
John Richard

(19 of 19)

Perjury that the foregoing is true
and correct on the 21st of Aug
2016

C.C. 26
Hon. M. Payson
District Court.

Respectfully,
~~John Richard~~
John Richard
91A069
Africa Coll, Free
PO Box 149
Africa, NY 14011

United States District Court
Western District of New York

(1 of 13)

John Richard Prose

v

Jennifer Dignean et al
Defendants

Notice of
Motion for
Default Judgment,
~~Dispositive~~
Dispositive Motion
DKT. 6:11 CV 6013

I John Richard Prose files this Notice of Motion for Default Judgment, Dispositive Motion to be heard by this court on March 15th 2018 at the US District Court, at 100 State St. Rochester NY for an order granting default motion judgment in favor of plaintiff upon the following grounds:

Ground one: Defendants clearly conceded to complaints allegations by their hearing statements

Ground Two Defendants illegally

(2013)
Changed their position which
is nonreversible/fatal to
their defenses in this suit
by law of fraud upon the
Court.

Wherefore plaintiff respectfully requests
an evidentiary hearing to explore defendants
reasons for legal standing in this suit to
challenge claims or ~~get~~ grant of entry
or ~~default~~ default judgment in favor of
Plaintiff

cc file
J.R. Benitez

Date 3/1/18

Respectfully

John Richard
John Richard 9/A069
Woodbourne Corr. Fac =
PO Box 1000
Woodbourne, NY 12788

(3 of 13)
United States District Court
Western District of New York

John Richard ~~Plaintiff~~ Prose

v

Jennifer Dignan, et al
Defendants

Affidavit in
Support of Notice
of Motion for
Default Judgment
Dispositive Motion
DKT. 6:11 CV 6013
(EAW-MWP)

1) I John Richard Prose declares under the
Penalty of Perjury that the following is true
and ~~cor~~ correct on this 7th day of March
2018,

2) That I/Plaintiff move this court to address
a dispositive motion for default judgment
under the following grounds:

Ground one

Defendants clearly
conceded to complaints
allegations by their hearing
statements

3) Defendant Tenea filed a 6/14/07 disciplinary

(11 of 13)

report (exh A) that caused a tier hearing to be held and testimony to be presented.

5) At this hearing defendant Thomas Tarea testified to the following concession that caused this suit's claims. (exh B pages 5-6)

Testimony of Tarea

"Inmate: ... was it intent to give me a 9 block programs on isolation to keep me in 9 block ...

SCC Tarea: NO ...

Inmate: is there anything in writing that verifies ... we have to program by the blocks were in? ...

Lt Giannino: If he's housing in 9 block is it uncommon for an inmate to be assigned to another block ...

Inmate: objection, objection I didn't say it was uncommon? I said in writing ...

Lt Giannino: ok okay, in writing? ...

SCC Tarea: is it in writing ... NO "

(5 of 13)

6) Then Defendant ~~was~~ Digneau was called to testify by plaintiff (exhib pages 6-8)

Testimony of Digneau

"SCC Digneau: Yes he's filed one grievance on me...

Inmate; ... is it in writing that I have to stay in 9 block for programming... I asked if that was in writing that she can do that...

Lt Giannino: Alright is it in writing some place that... he has to remain in 9 ~~block~~ building as far as a program assignment is concerned, as he resides in 9 block?

SCC Digneau: Is it in writing? I don't believe it is, no!!

Applicable Laws of
what a concession/conceding
is

7) In Perry v Ogdenburg Correctional Facility 2016 WL 3004658 "Judge Parks found that the defendants appeared to have conceded that

(6 of 13)

Plaintiff had a serious medical need" in this case that defendants had no written policy in place to isolate programs by the blocks there in (which in fact violates *Santiago v Miles*) That concession can be enforced (*Thomas v Leugh* 2015 WL 5750945, *Shaker v Graham* 2015 WL 1968492)

8) All of the testimonies by Tanea and Dignear lead to the undeniable fact that defendants actually and clearly conceded to the suit's allegations. They are concessions that also bars defendants from defending/litigating this suit by motions/answers/denials which would be fraud upon the court if they so deny these actions by defendants in this motion.

9) More law? Here it is. These detailed concessions are "ultimately fatal" to defendants litigation of this suit in all respects (*US v Ballard* 645 F3d 237, *US v Nezay* 668 F3d 330) That type of concession "is a prominent factor in the courts analysis" (*Bernal v Paradiso* 788 F2d 1043) The hearing minutes/testimonies (ex B) is

(7 of 13)

strengthened considerably by "concession" (Rice v Fox Broadcasting 330 F3d 1170) In Jones v Air Lines Pilots Assn. 642 F3d 1100) gives the legal view of defendants "concession to court that the "defendants block isolation policy is unwritten and" not supported... conceded to the truth of the factual allegations... that despite these concessions "defendants still find plaintiff guilty. Yet it can't be "rejected... on the basis that he was bound by "defendants testimonies, this court is also "bound by "the... statements where the record did not plainly contradict the concession... it stated that "all defendants "cannot disavow that concession because "at hindsight it might have been preferable for him to have contested it under the charge in position in their Answer." rather than conceded it... admissions or concessions are sufficient to resolve all issues" (Perez v Mejia v Holder 663 F3d 403)

10) Thus, defendants must concede to their prior position of admitting there was no written rule of block isolations. Thus no reports could have been written against plaintiff.

(8 of 13)
 11) Plaintiff filed a request for interrogatories that lead to defendant Dignean again admitting conceding that there's no 9 block isolation policy, (exh C page 5) quoting #s 13-14
Prelude

"13) Please describe in as much detail as possible by identifying who trained you to apply the policy to only program in the blocks inmates are in/cannot receive a program outside of their blocks, in your assignments... that you outlined in your 3/28/07 grievance" (exh D)
Answer

14) Please describe in as much detail as possible whether you used this same block isolation policy against other inmates, as you did against the plaintiff...

Response; "There was no block isolation policy"

12) Which equals to the suit's complaint claims of 9 block isolation unwritten policy tactic that she used in her discrimination racial bias reasons to deny plaintiff, she knew didn't exist. A further concession.

(9 of 13)

Ground Two

Defendants illegally changed their position which is non refutable data to their defenses in this suit, by law of fraud upon the court

13) Upon the claims left in this suit is founded in this racial discrimination of a block isolation in programming etc. (see suit's claims) used by both Defendants Dignan and Tanea.

~~14) Defendant~~

14) Defendant filed an Answer, contrary to and denying their concession position. equalling Fraud with intent to mislead the court.

15) Further proof of a ~~change~~ illegal change in position is Plaintiff's filed a Request for interrogatories for defendant Tanea. In this interrogatory Tanea changed his position, as if he didn't make a prior concession. The interrogatory (exh E pgs 3-4 quotes;

(100813)

"16) Please describe in as much detail as possible, who trained you to follow/apply the policy to only program in the blocks inmates are in/cannot receive a program outside of their blocks...

Response... don't understand what the question is.

17) Please describe in as much detail as possible whether you used this block isolation policy against other inmates...

Response; I never used it. I don't understand what block isolation is"

16) He used it to keeplock me 6/14/07 and 9/5/07 only offering 9 block programs just as DeBridon ~~and~~ Dignean did. He has a copy of this suit's complaint he knows exactly who it is. He chose to change his position, and Mr Bernitez has filed that motion to alter an interrogatory unnotarized to the court.

(11/2/13)

17) The Federal court law of *Allen v McCurry* (449 US 904 914) "Precludes any attempt on it's part the second time around to supplement the evidentiary record" (*US v Neza* 668 F5 330, *Mass sch of law* 142 F3d 973 9, *Prie ser v Rodriguez* 411 US 475 974 97, *Coogan v Cincinnati Bar Assn* 431 F2d 1209 97 1211) Allen (supra) supports the legal position "preventing inconsistent decisions on state and federal"

False filings to the
Court is Fraud

18) Fraud upon the court to "extend defendant's life motions to this court denying these facts, claims, and ignoring these laws. " Fraud rises to the level of an unconscionable plan or scheme which is designed to improperly influence the court in its decisions" (*Dixon v CIR* 316 F3d 104) The court said "we not only ~~should~~ ~~can~~ act, we should" (*Levander v Probar* 180 F3d 1114, *Alexander v Robertson* 882 F2d 421)

(12 of 13)

19) Both Grounds ONE concession, and Ground Two, change in position, deal directly with proof of plaintiff's claims. Defendant Dignean's actions carried over to defendant Torea (exh B pgs 5-11) at the hearings in violation of complaints claims.

conclusion

20) Wherefore, plaintiff respectfully asks/requests this court to grant this dispositive motion for Default judgment on the above grounds or in alternative order an evidentiary hearing to create a full record.

Dated March 1st 2018

cc file
JR Benitez

I John Richard declares under the penalty of perjury that the enclosed is true and correct on this 1st of March 2018 date.

Respectfully John Richard
John Richard

(13 of 13)
A Affidavit of Service

Richard Digneau 6:11 cv 6013

I John Richard declares under the penalty of perjury that I mailed this dispositive motion for Default Judgment on March 1st 2018 by placing it in the US mail box at Woodbourne Correctional Facility on March 2nd 2018 to be mailed to the following:

Hon M W Payson
Western District Court
100 State St
Rochester, NY 14614

J. R Benitez
Asst. Atty Gen
144 Exchange Bldg
Rochester NY 14614

I declare under the penalty of perjury that the foregoing is true and correct on this 2nd day of March 2018

Respectfully

John Richard
John Richard

FORM 2171A (4/01)

STATE OF FLORIDA DEPARTMENT OF CORRECTIONAL SERVICES

Five Points

Correctional Facility

INMATE MISBEHAVIOR REPORT ♦ INFORME DE MAL COMPORTAMIENTO DEL RECLUSO

1 NAME OF INMATE (Last, First) ♦ NOMBRE DEL RECLUSO (Apellido, Nombre)	NO. ♦ NÚM.	HOUSING LOCATION ♦ CELDA
Richard, John	91A0169	9-A1-18T
2 LOCATION OF INCIDENT ♦ LUGAR DEL INCIDENTE	INCIDENT DATE ♦ FECHA	INCIDENT TIME ♦ HORA
Program Committee Room / School Bldg.	6/14/07	9:00 AM
3 RULE VIOLATION(S) ♦ VIOLACIÓN/ES		
150.18 Program Committee Procedures. Inmate shall accept Program Assignments, failure to accept a Program may result in Disciplinary action.		
4. DESCRIPTION OF INCIDENT ♦ DESCRIPCIÓN DEL INCIDENTE		
On the above date and time inmate Richard, J 91A0169 appeared before the Program Committee for a Program Review and assignment. After reviewing the inmate's program needs, facility needs and availability of programs, inmate Richard was given several options on 9 Block for a Program assignment. Richard stated he would only accept a Program on 10 Block, I told him several times there were no openings on 10 Block. At that point inmate Richard refused to accept the assignment. Inmate Richard was advised of the consequences of his refusal. He was then given the opportunity to accept the assignment on 9 Block, which he refused again. Inmate Richard was then escorted by Security back to his housing unit where he was placed on keeplock.		
REPORT DATE ♦ FECHA	REPORTED BY ♦ NOMBRE DE LA PERSONA QUE HACE EL INFORME	SIGNATURE ♦ FIRMA
6/14/07	T. Tanea	7. 7.
5. ENDORSEMENTS OF OTHER EMPLOYEE WITNESSES (if any) ♦ ENDOSOS DE OTROS EMPLEADOS TESTIGOS (si hay)		TITLE ♦ TÍTULO
SIGNATURES: 1. Sgt. [Signature]		SRCC
2. _____		3. _____

NOTE: Fold back Page 2 on dotted line before completing below.

6. WERE OTHER INMATES INVOLVED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> IF YES, GIVE NAME & #
7. AT THE TIME OF THIS INCIDENT, WAS INMATE UNDER PRIOR CONFINEMENT/RESTRICTION? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> OR
AS A RESULT OF THIS INCIDENT, WAS INMATE CONFINED/RESTRICTED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> KL
8. WAS INMATE MOVED TO ANOTHER HOUSING UNIT? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
IF YES, (a) CURRENT HOUSING UNIT _____ (b) AUTHORIZED BY _____
9. WAS PHYSICAL FORCE USED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> IF YES, FILE FORM 2104I
AREA SUPERVISOR ENDORSEMENT Sgt. [Signature] BATES # 000005

Dist: WHITE - Disciplinary Office CANARY - Inmate (After review)

(exhibit A)

Lt. Giannino: If you do, you have to ask them through me. And if I feel that they are in fact pertinent to this hearing, I will allow them. Do you understand that?

Inmate: Yes.

Lt. Giannino: Okay.

Inmate: Uh, was it intent to give me a 9 block programs than uh, isolation to keep me in 9 block.

Lt. Giannino: Uh, Mr. Tanea, was your assignment of inmate Richard in 9 block uh, some type of way of keeping him in 9 block?

SCC Tanea: No.

Inmate: Is there anything in writing that verifies, saying that uh, pro, we have to program by the blocks were in?

Lt. Giannino: Is there anything uh, in the policy or uh, statement that uh, would keep an inmate in the block that he's in as far as his program assignment?

SCC Tanea: As far as his program assignment?

Lt. Giannino: Yeah.

SCC Tanea: Like what? I, because we move inmates for ASAT or ART and things like that.

Lt. Giannino: Okay, uh, but

SCC Tanea: For, recommended programs.

Lt. Giannino: Okay, well, if he's like in 9 block,

SCC Tanea: Yes.

Lt. Giannino: If he's housing in 9 block is it uncommon for an inmate to be assigned to another block?

Inmate: Objection, objection, I didn't say it was uncommon? I said in writing

Lt. Giannino: Oh, okay, in writing?

Inmate: In writing

(exhibit B)

Lt. Giannino: Was it in writing?

SCC Tanea: Is it in writing?

Lt. Giannino: Yeah, that he has to uh, remain in 9 block as far as the program assignment's concerned?

SCC Tanea: No.

Lt. Giannino: Okay, any other questions?

Inmate: (unintel) right now.

Lt. Giannino: Alright, thank you Mr. Tanea, Mr. Tanea is do, you know if Ms. Digneau is working today?

SCC Tanea: Yes, she is.

Lt. Giannino: Is she at an extension I can reach her?

SCC Tanea: Check 4305.

Lt. Giannino: 4305, thank you for your time.

SCC Tanea: Okay, bye.

Lt. Giannino: Yup, bye. (Dialing phone).

W. Kerry: Guidance, Wendy speaking.

Lt. Giannino: Wendy, Lt. Giannino, I'm looking for Ms. Digneau.

W. Kerry: Just a moment.

SCC Digneau: Digneau

Lt. Giannino: Hi, Digneau, this is Lt. Giannino how are you?

SCC Digneau: Good, what's up?

Lt. Giannino: Uh, I am in the middle of a Tier II hearing, that I'm holding on an inmate Richard.

SCC Digneau: Uh, huh.

Lt. Giannino: He was issued a misbehavior report by Mr. Tanea.

(Exhibit B)

SCC Digneau: Yes.

Lt. Giannino: On June 14th at around 9 am for uh, the charge is 180.18 program committee procedures. Uh, and inmate Richard has requested you as a witness. Uh, are you familiar with inmate Richard?

SCC Digneau: Yes, I am.

Lt. Giannino: Okay, uh, can you tell me is this misbehavior report that was issued by Mr. Tanea any form of retaliation for uh, supposedly he had filed some grievances against you and the uh, program committee is this in any form of a retaliation?

SCC Digneau: No.

Lt. Giannino: Okay, are you familiar with some grievances that inmate Richard filed?

SCC Digneau: Yes, he's filed one grievance on me.

Lt. Giannino: Okay. Alright at this point inmate Richard do you have any questions for Ms. Digneau?

Inmate: Yes, uh, if she refused to assign me the programs that I requested both times (unintel) is it in writing that I have to stay in 9 block for programming?

Lt. Giannino: Uh, did you hear the question Ms. Digneau?

SCC Digneau: I didn't.

Lt. Giannino: Alright, he's, his question is, is it ah you know him being in 9 building, does he have to stay in 9 building as far as programming?

SCC Digneau: That would be up to the program committee chairperson right now.

Lt. Giannino: Okay,

Inmate: I asked if that was in writing that she can do that, she can

Lt. Giannino: Alright is it in writing someplace that uh, he has to remain in 9 building as far as a program assignment is concerned as he resides in 9 building?

SCC Digneau: Is it in writing? I don't believe it is, no.

Lt. Giannino: Okay.

(exhibit B)

Inmate: I didn't only file a grievance, I filed another, a second complaint on 5/11. I sent her a copy of it.

Lt. Giannino: Uh, Ms. Digneau are you familiar with a civil service complaint that inmate Richard had filed against you?

SCC Digneau: No.

Lt. Giannino: Okay,

Inmate: I, um, did she train the program guy, that uh,

Lt. Giannino: Alright, you have to speak up a little more clearly

Inmate: A prog, a program, did she train the guy that was in the program committee right now, Mr. Tanea.

Lt. Giannino: Uh, have you in any way trained uh, or had anything to do with Mr. Tanea. (tape ends)

Okay today's date is June 18th, 2007 the time is now 11:33 am, my name's Lt. Giannino, this is a continuation of a Tier II hearing being held on inmate Richard, present in the 9 building hearing room with me is.

Officer Jones: Officer Jones

Lt. Giannino: And inmate Richard, name and number?

Inmate: John Richard 91A0169.

Lt. Giannino: And on speaker phone I have uh, Senior Correction Counselor Ms. Digneau. Please identify yourself ma'am.

SCC Digneau: Senior Correction Counselor Digneau.

Lt. Giannino: Okay, uh I guess the last question was uh, before the other tape ended was uh, did you any way have anything to do with the training of Mr. Tanea and his ability to conduct a program committee?

SCC Digneau: Yes.

Lt. Giannino: Okay.

Inmate: Was he present at the time that I appeared before you?

(exhibit B)

Lt. Giannino: Alright, Ms. Digneau was he present at any time during inmate Richard's previous program committees that you had held?

SCC Digneau: No.

Lt. Giannino: Okay.

Inmate: Did she speak to him about me?

Lt. Giannino: Ms. Digneau, did you in any way spoken to inmate Tanea, prior to him having, him conducting a program committee about inmate Richard?

SCC Digneau: You mean Senior Counselor Tanea?

Lt. Giannino: Yes.

SCC Digneau: (unintel) (laughs)

Lt. Giannino: I'm sorry what was that?

SCC Digneau: You said inmate Tanea.

Lt. Giannino: I'm sorry, yeah.

SCC Digneau: Oh.

Lt. Giannino: Mr. Tom Tanea, Senior Correction Counselor.

SCC Digneau: He was aware of his case.

Lt. Giannino: Okay.

Inmate: Um,

Lt. Giannino: In what aspect was he aware of his case?

SCC Digneau: Well, he was outside the room when (unintel).

Lt. Giannino: Any other questions?

Inmate: Was there other programs available to me at the time? That I would appear before you twice?

Lt. Giannino: I don't recall those hearings, I didn't do them? Were there any other programs available to Mr. Richard, on the both previous occasions, is that what your referring to?

(exhibit B)

Inmate: Yes.

Lt. Giannino: Both previous program committee appearances.

SCC Digneau: Yes, there was.

Lt. Giannino: There was, okay. Alright thank you for your testimony Ms. Digneau.

SCC Digneau: Yup.

Inmate: (unintel) I know numerous people who don't have, who have one program, it is not necessary to take 2 programs, (unintel) I've been in jail 18 years. (unintel).

Lt. Giannino: (Dialing phone)

SCC Tanea: Program committee, Tanea.

Lt. Giannino: Hello, Mr. Tanea, Lt. Giannino again I am uh, still doing a Tier II hearing on inmate Richard and he is once again requested that you uh, as witness for uh some other questioning, please identify yourself for the record?

SCC Tanea: Thomas Tanea, Senior Counselor for Program Committee.

Lt. Giannino: Okay, uh, your question for Mr. Tanea,

Inmate: Right uh,

Lt. Giannino: Can you ask him

Inmate: What was my program needs?

Lt. Giannino: What's that?

Inmate: What was my program needs?

Lt. Giannino: Uh, do you recall inmate, uh, Mr. Tanea, what inmate Richard's program need was?

SCC Tanea: His program needs are?

Lt. Giannino: Yeah, or was.

SCC Tanea: I could look it up.

(13) Please describe in as much detail as possible, by identifying who trained you to apply the POLICY to only program in the blocks inmates are in/cannot receive a program outside of their blocks, in your assignments of programs to all inmates? prior to becoming chairman. That you outlined in your 3/28/07 grievance response.

RESPONSE: The block porter jobs were usually filled with inmates that lived on the blocks and usually filled by the request of the block officers. I don't remember the grievance from 3/28/07.

(14) Please describe in as much detail as possible, whether you used this same block isolation policy against other inmates, as you did against Plaintiff, and if you did what inmates?

RESPONSE: There wasn't a block isolation policy.

(15) Please describe in as much detail as possible, whether the program changes are listed on program change sheets, that are required for logging/documenting a program.

RESPONSE: The program changes were listed on a sheet and distributed to the security staff in order for them to document on their accountability boards where the inmates were assigned to.

(16) Please describe in as much detail as possible, your training knowledge in regards to the EMPLOYEE MANUAL HANDBOOK specific rules of the word "SHALL"

(exhibits)

NEW YORK STATE
DEPARTMENT OF CORRECTIONAL SERVICES
FIVE POINTS CORRECTIONAL FACILITY

M E M O R A N D U M

TO : DSP ZENZEN
FROM : SR. CC DIGNEAN *Sr CC Digneau*
DATE : 4/11/07
SUBJECT : RICHARD, J. 91A0169 9-A1-18T
FPT-17029-07

.....
RICHARDS, J. 91A0169 WROTE ME REQUESTING TO BE SEEN AT PROGRAM COMMITTEE TO PICK A SECOND PROGRAM. I RETURNED A RESPONSE TO HIM ON 3/26/07 INFORMING HIM THAT HE WOULD BE SCHEDULED FOR PROGRAM COMMITTEE. HE WAS PLACED ON A PROGRAM COMMITTEE CALLOUT ON 3/28/07.

RICHARDS DEMANDED A JOB IN 10 BLOCK. HE IS HOUSED IN 9 BLOCK. I EXPLAINED TO HIM THAT THE FACILITY DOESN'T MOVE INMATES FROM ONE BLOCK TO ANOTHER FOR PORTER OR UTILITY ASSIGNMENTS. HE CONTINUED TO DEMAND TO BE MOVED TO 10 BLOCK FROM 9 BLOCK. I AGAIN INFORMED HIM THAT PROGRAM COMMITTEE DOESN'T DO BLOCK MOVES UNLESS REQUIRED BY A PROGRAM NEED. HE CONTINUED TO ARGUE WITH ME ABOUT BEING MOVED AND GETTING A JOB ON 10 BLOCK. I OFFERED HIM A PORTER, REC AIDE, OR UTILITY GANG ON 9 BLOCK. HE REFUSED THESE PROGRAMS AND AGAIN DEMANDED TO BE MOVED TO 10 BLOCK. I NEVER OFFERED HIM A PROGRAM AS A MOBILITY ASSISTANT.

I DID DISCUSS RICHARD'S DISCIPLINARY RECORD WITH HIM AS I DO WITH ALL INMATES AT PROGRAM COMMITTEE. HIS DISCIPLINARY RECORD CONSISTS OF WEAPONS, DRUGS, ASSAULT ON INMATES, UNAUTHORIZED ORGANIZATION ACTIVITY, LEWD CONDUCT, NUMEROUS FIGHTS, AND NUMEROUS TIER 2'S. DISCIPLINARY HISTORY IS A FACTOR WHEN PROGRAMMING INMATES WITHIN A CORRECTIONAL FACILITY.

I NEVER MADE ANY RACIAL STATEMENTS, NEGATIVE RELIGIOUS STATEMENTS, OR STATEMENTS REGARDING HIS INTELLIGENCE. I ALSO NEVER MADE THE STATEMENT "YOU SHOULD BE IN PRISON THE REST OF YOU LIFE". I NEVER USED ANY VULGARITY TOWARDS RICHARD DURING THE CONVERSATION.

RICHARD LEFT THE ROOM STATING HE DOESN'T WANT ANY OF THOSE PROGRAMS. HE WAS LEFT UNASSIGNED FOR A HALF MOD.

(exh, b7f X)
(exh, b7f 10)

your programing assignments to inmates (deleting names and #s) from one full week prior to 6/14/07 and one full week after.

RESPONSE: Don't know.

(12) Please identify an attach a copy of any an all documents showing your programing (sic) asignments (sic) to inmates (deleting names and #s) from two full week prior to 9/5/07 and two full week after. ✓

RESPONSE: Don't know.

(13) Please identify an attach a copy of any an all documents showing program availability sheets of open programs two full week prior to 6/14/07 and two full weeks after. ✓

RESPONSE: Don't know.

(14) Please identify an attach a copy of any an (sic) all documents showing the program availability (sic) sheets from two full week prior to 9/5/07 and two full week after. ✓

RESPONSE: Don't know.

(15) Please describe in as much detail as possible, specifically where in directive 4802 in effect in 2007 does it state/ make it MANDATORY to have two (2) programs/modes for programing (sic).

RESPONSE: Don't know without reviewing directive.

(16) Please describe in as much detail as possible, who trained you to follow/apply the policy to only program in the blocks inmates are in/cannot recieve (sic)

(exhibit E)

a program outside of thier (sic) blocks, your assignmments (sic) of programs to all inmates? prior to becoming chairman.

RESPONSE: Many things were taken into consideration about programming. Don't understand what question is.

(17) Please describe in as much detail as possible, whether you used this block isolation policy against other inmates, an (sic) if so who?

RESPONSE: I never used it, I don't understand what block isolation is.

(18) Please describe in as much detail as possible, your duty as a counselor/program committee chairman to review Plaintiffs files to ascertain the appropriate placement in MANDATORY programing (sic).

RESPONSE: Reviewed entire record of every inmate.

(19) Please describe in as much detail as possible, whether you are given an OATH to abide by all rules, especially in teir (sic) hearing testimonies.

RESPONSE: Always followed rules/reg.

(20) Please describe in as much detail as possible, your knowledge/understanding of the word "SHALL" as outlined in the EMPLOYEE MANUAL (sic) HANDBOOK, in all respects.

RESPONSE: Don't know.

(21) Please describe in as much detail as possible, whether any complaints/grievances of misconduct reports were filed against you since being hired by DOCCS.

RESPONSE: Numerous inmates have filed grievances, I couldn't give you answer in all of my years in DOCCS.

(exhibit 9)